
TITLE 326 AIR POLLUTION CONTROL DIVISION

Proposed Rule
LSA Document #16-332

DIGEST

Amends [326 IAC 4-3-1](#), [326 IAC 4-3-2](#), [326 IAC 4-3-3](#), [326 IAC 4-3-4](#), [326 IAC 4-3-5](#), and [326 IAC 4-3-6](#) concerning air emissions from outdoor hydronic heaters. Effective 30 days after filing with the Publisher.

HISTORY

First Notice of Comment Period: August 17, 2016, Indiana Register (DIN: [20160817-IR-326160332FNA](#)).
Second Notice of Comment Period: March 15, 2017, Indiana Register (DIN: [20170315-IR-326160332SNA](#)).
Notice of First Hearing: March 15, 2017, Indiana Register (DIN: [20170315-IR-326160332PHA](#)).
Change in Notice of Public Hearing: May 31, 2017, Indiana Register (DIN: [20170531-IR-326160332CHA](#)).
Date of First Hearing: July 12, 2017.

PUBLIC COMMENTS UNDER [IC 13-14-9-4.5](#)

[IC 13-14-9-4.5](#) states that a board may not adopt a rule under [IC 13-14-9](#) that is substantively different from the draft rule published under [IC 13-14-9-4](#), until the board has conducted a third comment period that is at least 21 days long. Because this proposed rule is not substantively different from the draft rule published on March 15, 2017, at DIN: [20170315-IR-326160332SNA](#), the Indiana Department of Environmental Management (IDEM) is not requesting additional comment on this proposed rule.

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

IDEM requested public comment from March 15, 2017, through April 14, 2017, on IDEM's draft rule language. No comments were received during the second comment period.

SUMMARY/RESPONSE TO COMMENTS RECEIVED AT THE FIRST PUBLIC HEARING

On July 12, 2017, the Environmental Rules Board (board) conducted the first public hearing/board meeting concerning the development of amendments to [326 IAC 4-3](#). No comments were made at the first hearing.

[326 IAC 4-3-1](#); [326 IAC 4-3-2](#); [326 IAC 4-3-3](#); [326 IAC 4-3-4](#); [326 IAC 4-3-5](#); [326 IAC 4-3-6](#)

SECTION 1. [326 IAC 4-3-1](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-3-1](#) Applicability

Authority: [IC 13-14-8-7](#); [IC 13-17-1-1](#); [IC 13-17-3-4](#)

Affected: [IC 13-17-1-3](#); [IC 13-17-3](#)

Sec. 1. (a) Except as provided in subsection (b), this rule applies to any manufacturer, supplier, distributor, or person that:

- (1) distributes or sells;
- (2) markets;
- (3) installs;
- (4) operates; or
- (5) owns;

an outdoor hydronic heater in Indiana.

(b) Sections 3 and 6 of this rule do not apply to the following:

(1) An outdoor hydronic heater that:

(A) is or has been owned by a person for his or her own personal use; and

(B) is distributed or sold within three (3) years of the effective date of this rule to another for his or her own personal use.

For purposes of this subdivision, "personal use" means the use of an outdoor hydronic heater by an individual solely for residential space or domestic water heating, and not to service a commercial or institutional establishment.

(2) An outdoor hydronic heater available for sale in an Indiana dealer's inventory before the effective date of this rule.

(3) Homemade units.

~~(4)~~ an outdoor hydronic heater where the manufacturer has demonstrated that the unit is designed for a thermal output of three hundred fifty thousand (350,000) British thermal units per hour (Btu/hr) or more.

(Air Pollution Control Division; [326 IAC 4-3-1](#); filed Apr 18, 2011, 11:27 a.m.: [20110518-IR-326050332FRA](#); readopted filed Jun 29, 2017, 9:25 a.m.: [20170726-IR-326170226BFA](#))

SECTION 2. [326 IAC 4-3-2](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-3-2](#) Definitions

Authority: [IC 13-14-8-7](#); [IC 13-17-1-1](#); [IC 13-17-3-4](#)

Affected: [IC 13-17-1-3](#); [IC 13-17-3](#)

Sec. 2. The following definitions apply throughout this rule:

(1) "Clean wood" means untreated wood that has no paint, stains, coatings, glues, or any chemical treatment.

(2) "Distribute or sell" means to:

- (A) distribute;
- (B) sell;
- (C) advertise for sale;
- (D) offer for sale;
- (E) lease;
- (F) ship;
- (G) deliver for shipment;
- (H) release for shipment; or
- (I) receive and deliver, or offer to deliver.

The term does not include the distribution or sale by a manufacturer of an outdoor hydronic heater that is installed outside of Indiana.

~~(3) "Homemade unit" means an outdoor hydronic heater built by a person for the builder's personal use. The term does not include installation kits.~~

~~(4) "Manufacturer" means any person who constructs or imports into the United States an outdoor hydronic heater.~~

~~(5)~~ **(3)** "Outdoor hydronic heater" means a fuel burning device:

- (A) designed to burn wood or other approved renewable solid fuels;
- (B) ~~that is~~ intended for outdoor installation or installation in structures not normally occupied by humans; and
- (C) that heats building space or water, or both, by the distribution, typically through pipes, of a fluid heated in the device, typically water or a water and antifreeze mixture.

~~(6)~~ **(4)** "Start-up period" means the time period beginning with flame stability after first charge of wood fuel and lasts no longer than two (2) hours. The term includes only initial start-up where no previous wood coal bed exists and does not include refueling.

(Air Pollution Control Division; [326 IAC 4-3-2](#); filed Apr 18, 2011, 11:27 a.m.: [20110518-IR-326050332FRA](#); readopted filed Jun 29, 2017, 9:25 a.m.: [20170726-IR-326170226BFA](#))

SECTION 3. [326 IAC 4-3-3](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-3-3](#) Emission limit for outdoor hydronic heaters installed after the effective date of this rule

Authority: [IC 13-14-8-7](#); [IC 13-17-1-1](#); [IC 13-17-3-4](#)

Affected: [IC 13-17-1-3](#); [IC 13-17-3](#)

Sec. 3. ~~After the effective date of this rule,~~ Except as provided in section 1(b) of this rule, ~~no~~ a person shall **not** distribute or sell or install an outdoor hydronic heater unless

(1) it has been qualified through U.S. EPA's voluntary outdoor hydronic heater program to meet the Phase 2 particulate matter emission limit of thirty-two hundredths (0.32) pounds per million British thermal units

(lb/MMBtu) heat output, with no individual test run exceeding eighteen (18) grams per hour; and

(2) a U.S. EPA white tag is affixed to the unit in a readily visible or accessible location. The white tag signifies that the unit meets the Phase 2 emission limit for U.S. EPA's voluntary outdoor hydronic heater program. **it has been certified to meet the emission limits for hydronic heaters in the New Source Performance Standard at 40 CFR 60, Subpart QQQQ, as incorporated by reference at [326 IAC 12*](#).**

***Copies of this document may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Indiana Department of Environmental Management, Office of Legal Counsel, Indiana Government Center North, 100 North Senate Avenue, Thirteenth Floor, Indianapolis, Indiana 46204.**

(Air Pollution Control Division; [326 IAC 4-3-3](#); filed Apr 18, 2011, 11:27 a.m.: [20110518-IR-326050332FRA](#); readopted filed Jun 29, 2017, 9:25 a.m.: [20170726-IR-326170226BFA](#))

SECTION 4. [326 IAC 4-3-4](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-3-4](#) General requirements for existing outdoor hydronic heaters

Authority: [IC 13-14-8-7](#); [IC 13-17-1-1](#); [IC 13-17-3-4](#)

Affected: [IC 13-17-1-3](#); [IC 13-17-3](#)

Sec. 4. (a) ~~After November 30, 2014~~ All outdoor hydronic heaters that have not been ~~qualified to meet the Phase 2 emission limit in section 3 of this rule~~ **certified to meet the emission limits in 40 CFR 60, Subpart QQQQ**, must have a permanent stack extending five (5) feet higher than the peak of the roof of any occupied building:

- (1) located within one hundred fifty (150) feet of the unit; and
- (2) not located on the same property on which the heater is installed.

(b) The maximum stack height required under this rule is twenty-two (22) feet above the ground.

(Air Pollution Control Division; [326 IAC 4-3-4](#); filed Apr 18, 2011, 11:27 a.m.: [20110518-IR-326050332FRA](#); readopted filed Jun 29, 2017, 9:25 a.m.: [20170726-IR-326170226BFA](#))

SECTION 5. [326 IAC 4-3-5](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-3-5](#) Operating standards

Authority: [IC 13-14-8-7](#); [IC 13-17-1-1](#); [IC 13-17-3-4](#)

Affected: [IC 13-17-1-3](#); [IC 13-17-3](#)

Sec. 5. (a) ~~No~~ **A** person shall **not** operate an outdoor hydronic heater from May 1 through September 30 if the unit is located less than three hundred (300) feet away from an occupied building not located on the same property on which the heater is installed, ~~unless the outdoor hydronic heater has been qualified to meet the Phase 2 emission limit in section 3 of this rule.~~ **certified to meet the emission limits in 40 CFR 60, Subpart QQQQ.**

(b) A person shall burn only clean wood or other approved renewable solid fuel in an outdoor hydronic heater.

(c) ~~No~~ **A** person shall **not** burn any of the following items in an outdoor hydronic heater:

- (1) Any wood that does not meet the definition of clean wood.
- (2) Garbage.
- (3) Tires.
- (4) Lawn clippings or yard waste.
- (5) Materials containing plastic.
- (6) Materials containing rubber.
- (7) Waste petroleum products.
- (8) Paints and paint thinners.
- (9) Chemicals.
- (10) Coal.
- (11) Glossy or colored papers.
- (12) Construction and demolition debris.
- (13) Plywood.
- (14) Particleboard.
- (15) Manure.
- (16) Animal remains.
- (17) Asphalt products.

(d) Home heating oil, natural gas, or other fuels recommended by the manufacturer may be used as a starter or supplemental fuel for dual-fired outdoor hydronic heaters.

(e) ~~No~~ **A** person shall **not** cause or allow the emission of a smoke plume from an outdoor hydronic heater to exceed an average of twenty percent (20%) opacity, a measure of the amount of light obscured by particulate pollution, for six (6) consecutive minutes in any one (1) hour period. Upon initial firing of the unit where no wood coal bed exists, visible emissions may not exceed forty percent (40%) opacity for twenty (20) consecutive minutes during the start-up period. Measurements of opacity shall **must** be conducted in accordance with 40 CFR 60, Appendix A, Method 9*, by a representative of the commissioner.

- (f) Outdoor hydronic heaters must comply with all applicable:
- (1) state and federal laws; and
 - (2) local ordinances.

~~*This document is incorporated by reference. and is available~~ **Copies may be obtained** from the Government ~~Printing Publishing Office, 732 North Capitol Avenue NW, Washington, D.C. 20401~~ **www.gpo.gov**, or ~~is are~~ available for review ~~and copying~~ at the Indiana Department of Environmental Management, Office of Air Quality, **Legal Counsel**, Indiana Government Center North, ~~Tenth Floor~~, 100 North Senate Avenue, **Thirteenth Floor**, Indianapolis, Indiana 46204.

(Air Pollution Control Division; [326 IAC 4-3-5](#); filed Apr 18, 2011, 11:27 a.m.: [20110518-IR-326050332FRA](#); readopted filed Jun 29, 2017, 9:25 a.m.: [20170726-IR-326170226BFA](#))

SECTION 6. [326 IAC 4-3-6](#) IS AMENDED TO READ AS FOLLOWS:

[326 IAC 4-3-6](#) Notice to buyers

Authority: [IC 13-14-8-7](#); [IC 13-17-1-1](#); [IC 13-17-3-4](#)

Affected: [IC 13-17-1-3](#); [IC 13-17-3](#)

Sec. 6. (a) After the effective date of this rule, ~~no~~ **a** person shall **not** distribute or sell or install any outdoor hydronic heater unless the seller or dealer provides the buyer or lessee with a copy of this rule.

- (b) The buyer or lessee shall **must** sign a notice at the time of purchase or lease that includes the following:
- (1) A statement acknowledging receipt of the rule, as follows: "I, (buyer or lessee's name), have been provided a copy of [326 IAC 4-3](#) (Outdoor Hydronic Heater ~~Indiana Air Pollution Control Board~~ rule) from (seller or dealer's name) at the time of my purchase or lease."
 - (2) The name, address, and telephone number of both the seller or dealer and the buyer or lessee.
 - (3) The address of the location where the outdoor hydronic heater will be installed.
 - (4) The make and model of the outdoor hydronic heater.

(c) Within seven (7) days of making delivery of the outdoor hydronic heater into the possession of the buyer or lessee, the seller or dealer shall **must** mail or otherwise provide a copy of the signed notice to the department.

(Air Pollution Control Division; [326 IAC 4-3-6](#); filed Apr 18, 2011, 11:27 a.m.: [20110518-IR-326050332FRA](#); readopted filed Jun 29, 2017, 9:25 a.m.: [20170726-IR-326170226BFA](#))

[Notice of Public Hearing](#)

Posted: 08/09/2017 by Legislative Services Agency
An [html](#) version of this document.